

Honoring Native Kinship: A Brief on ICWA and Relative Caregivers



Supporting American Indian and Alaska Native (Native) children, relative caregivers, and families requires first understanding traditional ways of child-rearing, teaching, and learning among Indigenous communities and the impacts of historical trauma. In many Indigenous communities, a child's parents and extended family have an integral role in nurturing, teaching, training, and caring for them. Research has shown that the [impacts of historical trauma on traditional child-rearing practices and family dynamics](#), including the long history of colonization and federal policies that disrupted Tribal lands, cultural practices, language, and family relationships, are still felt by families today. This history of assimilation and its generational impacts includes the [United States Indian boarding school era](#), subsequent [public and private child welfare agency removal of Native children](#), and the [contemporary disproportionality](#) of Native children in state child welfare systems. Historical and intergenerational trauma interrupted the passing down of traditional parenting knowledge and child-rearing practices that supported the well-being of Native children, families, and their communities, disrupting teachings and practices that had been in place for thousands of years.

This brief uses “[relative caregiver](#)” and “relative child” to refer to adults and children, respectively, who are connected to each other by kinship bonds, whether extended family members or close friends. Relative caregivers may raise relative children whose parents are unable to do so.

Legal Foundations

Indian Child Welfare Act (ICWA)

In response to the alarmingly high number of Native children being removed from their homes by both public and private agencies, Congress passed the Indian Child Welfare Act (ICWA) in 1978. ICWA explicitly outlines provisions for keeping Native children connected to their families, communities, and cultures, including placing an emphasis on providing active efforts to the family to prevent child removal and support reunification whenever possible. When out-of-home care is necessary, ICWA prioritizes placing children and youth with extended family,

which aligns with traditional child-rearing practices that recognize the critical role of extended family members in caring for their relative children. [Extended family](#) is often community-defined and may extend beyond mainstream definitions to include distant relations and clan systems. Additionally, a recent study showed that Tribal Nations have embedded cultural values into their Tribal codes by [rewriting state definitions of extended family](#) to reflect their cultural understandings of kinship. Together, ICWA's protections and emphasis on placement with extended family, as well as the development of Tribal codes that reflect cultural understandings of kinship, reflect an approach to kinship care that honors Native children's identities and strengthens families – principles that also align with broader federal child welfare policy, where kinship is increasingly recognized as a cornerstone of child and family well-being.

Additional Federal Laws Also Support Kinship Care

Research has shown that ICWA placement preferences should be the [gold standard](#) for all children, not just Native children, given the benefits of kinship care. Federal child welfare laws and policy, including the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections) of 2008 and the Family First Prevention Services Act (FFPSA) of 2018, have increasingly placed greater emphasis on the value of kinship care in promoting safety, continuity, and connection to family for all children. Fostering Connections requires agencies to identify and notify relatives when children enter foster care, allows federal funding for kinship guardianship assistance, and supported grants for kinship navigator programs. Fostering Connections also recognized the validity of Tribally licensed homes in upholding ICWA's placement preferences, requiring that a Tribal home study be treated as equivalent to a state home study ([42 USC 671\(a\)\(26\)\(B\)](#)). FFPSA built on Fostering Connections law to elevate kinship care by prioritizing placement with relatives over group care and allows for federal funds to be used for evidence-based prevention services and kinship navigator programs to keep children safe with family.

Children Benefit from Kinship Care

There is a growing body of evidence, compiled in peer-reviewed publications, showing the [benefits of kinship care for all children and youth](#). A large study that looked at data for more than half a million children found that children in kinship care had [fewer behavioral problems, fewer mental health disorders, better well-being, and less placement disruption](#) than children in non-kinship foster care, and all of these differences were statistically significant. Other studies suggest that children in kinship placements exhibit [lower levels of problematic behaviors](#) as compared to children in non-kinship placements, in part due to having a less traumatic transition to care and having familiarity with caregivers. A 2008 study found that children placed in kinship homes upon their initial entry into foster care or within one month of their entry are more likely to be at [lower risk of placement instability and have a lower expected probability of behavior problems](#) than children placed in kinship homes after at least a month in non-kin foster homes or children who remain in non-kin foster care only.

Another large study found [similar positive, long-term effects of kinship care](#). By conducting an analysis of national data from the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Youth in Transition Database (NYTD), the study’s authors found that “in the long run, there are profound and enduring benefits to kinship foster care.” The analysis of the AFCARS/NYTD data showed children in kinship care were more likely to be employed or enrolled in formal education at age 21 and less likely to require public assistance, be homeless, or be incarcerated compared to children who had been placed in non-kin foster care. The authors suggest that one reason kinship care could be helpful in longer-term outcomes for children and youth is that “kinship care is much more likely to result in youth being placed with a family that matches their prior family along racial, religious, and cultural dimensions.”

These research studies show that kinship care has long-term benefits for children as they approach adulthood. The benefits are significant and include better outcomes in education, employment, housing, juvenile delinquency, and mental health. Given the lasting impact of placement decisions, it is critical to consider these long-term effects in both ICWA cases involving Indian children and all child welfare cases in which children need out-of-home care. Although a child or youth placed with extended family may not have previously known those relatives well, the long-term benefits of kinship care over non-kinship placements are clear and compelling. These benefits underscore the importance of upholding ICWA and ensuring that its provisions – including making active efforts to prevent the breakup of Native families and prioritizing placement with extended family when out-of-home placement is necessary – are implemented consistently and fully, matching both the letter and the spirit of ICWA.

Specific Benefits of Kinship Care for Native Children

Studies have shown that [Native foster parents](#) will have access to the specific values, culture, beliefs, and customs held by their Tribe that are likely to be unavailable to non-Native foster parents, given that oral history remains a powerful way of passing down culture within Tribes across generations. Developmental psychologists view the [transmission of values and cultural knowledge across generations](#) to be a key psychological developmental milestone that is achieved during adolescence. Therefore, modern research and literature on kinship care and youth psychological developmental milestones underscore the importance of following ICWA placement preferences to keep Native children connected to their families.

While there is limited research on kinship care and outcomes for Native youth specifically, qualitative studies show [deep emotional connections](#) between kin caregivers and the Native children and youth they raise. Studies outlining the [experiences of Native children with their kin caregivers](#) show [strong attachment and bonding development](#). These studies commonly report on grandparents’ and grandchildren’s perspectives. They show that grandparents feel deeply responsible for keeping their grandchildren connected to family and culture, resulting in them making extraordinary efforts to assume caregiving responsibilities despite facing substantial financial stress and their own health problems. In another study, grandparents

worried that their physical limitations prevented them from doing physical activities with their grandchildren, but their grandchildren expressed compassion and understanding of their grandparents' physical needs, demonstrating [mutual empathy and attachment](#) between both members of the dyad.

Opponents of ICWA often claim that Native children who have been placed with non-Native foster parents should stay in those placements, rather than being moved to placements with their relatives, because the child has bonded with the foster family. These arguments can arise as a result of inconsistent implementation and compliance with ICWA. However, these arguments rely on outdated attachment and bonding literature and do not take into account the [importance of cultural identity and connection to an individual's long-term mental health and well-being](#). Furthermore, when states correctly follow the placement preferences outlined in ICWA, bonding with non-Native foster families should not be an issue, as Native children who require out-of-home care should be properly placed from the outset, allowing them to experience the benefits of kinship care from the beginning of their time in care.

Inequitable Support for Kinship Care

Native caregivers, many of whom are grandparents raising their grandchildren, have endured past experiences of trauma related to violence and cultural degradation (forced relocation, boarding schools, state and private agency removal of Native children) that can increase fear and mistrust of state entities – impacting caregiver comfort in accepting [benefits and resources](#). Barriers to accessing resources can make it difficult to address challenges that caregivers face in caring for their relative children – such as obtaining housing, reliable transportation, and enrolling children in school.

Supporting kinship care means allocating resources in an equitable manner. As a recent study shows, [many states do not provide financial support or other resources to kin caregivers who are not licensed foster parents](#). The practice of child welfare agencies removing children from their parents and finding a relative caregiver to assume care without offering them a pathway to care for the child as a foster parent is known as “[kinship diversion](#),” as it keeps children out of the foster care system. These families do not receive the same supports as families headed by licensed foster parents, which can pose difficult choices for them. As noted in a [recent article](#) about state policies:

When states use kinship diversion to not only provide stability and care for children but also cut the costs of state care, they need to adequately direct money to ensure caregivers have resources and support. Policies offering inadequate support for kinship diversion create a false dilemma for families — choose foster care with support or kinship diversion without it...

In addition to financial support, states also provide other resources in an inconsistent way, depending on whether the child is residing with kin in a licensed foster home, an unlicensed

foster home, or a home that was diverted from foster care. Affected resources include eligibility for Medicaid health insurance, legal services, respite care, child care, and clothing allowances. (For data for each individual state, see these [data tables](#).)

Access to foster or kinship care licensing directly affects eligibility for programs like kinship guardianship assistance, a connection that is particularly significant for Tribes, many of which favor alternative permanency options – such as Tribal customary adoption or guardianship – over the termination of parental rights and conventional adoption practices. Ensuring that Native relative caregivers can obtain licensure not only expands their access to necessary services but also aligns with Tribal values and the requirements of ICWA that prioritize maintaining family, community, and cultural connections.

Federal Policy Reforms to Support Kinship Care

To help address some of these issues, a 2023 federal rule change allows Title IV-E foster care agencies to adopt separate licensing or approval standards for relative caregivers. The rule requires states and Tribes to provide licensed or approved relative foster family homes with foster care maintenance payments that are equal to those provided to non-relative foster family homes ([45 CFR § 1355.20\(a\)](#)). The rule only applies to states and Tribal Nations that have an approved Title IV-E plan or are operating the Title IV-E program through a Tribal-state agreement.

The rule recognizes the many benefits associated with relatives caring for their relative children, as well as the challenges that relatives face providing care (often in emergency situations that involve unplanned expenses). It also acknowledges the critical need to ensure relatives have equitable access to services and financial supports that enable children to remain in relative care until they can be reunified or exit foster care with their kin to supported guardianship or adoption. This rule affirms kinship care as a preferred and supported option for promoting child stability, preserving cultural identity, and strengthening family well-being, building on ICWA’s provisions to keep families together.

National organizations, child welfare agencies, and relative caregivers collaborated to create [model standards](#) to support states in implementing a commonsense kin-specific licensing process that aligns with the needs and experiences of relative caregivers. The National Indian Child Welfare Association, in partnership with the Grandfamilies & Kinship Support Network, [updated guidelines](#) for Tribes creating their own licensing standards that promote the safety and cultural identity of the children in their care.

Another reform for kinship families is tucked into [Section 70403](#) of H.R. 1, the big 2025 budget bill. Section 70403 extends eligibility for the federal adoption tax credit to families who adopt through a Tribal court. This federal tax credit has been available since 1997 for families who adopt a child with “special needs” through a state court, and the law now extends that eligibility to adoptions granted by Tribal courts.

To support kinship families pursuing adoption or another legal relationship, the Grandfamilies & Kinship Support Network and the American Bar Association Center on Children and the Law have developed a [resource that outlines legal models and strategies](#) being used around the United States to successfully help kinship families get the legal support they need to keep their relative children safe and supported in their care.

In addition to federal policy reforms, practice development continues at the Tribal level, with [some Tribal Nations](#) establishing kinship navigator programs – supported by varying combinations of federal, state, and Tribal funding – to help relative caregivers access services that meet the needs of both the children in their care and their families. While not every Tribe has a kinship navigator program, [many offer a range of wraparound services](#) on Tribal lands that provide culturally responsive support for the whole family, including relative caregivers raising their relative children. Ultimately, the evolution of policies and practices reflects a growing commitment to strengthening kinship care; enhancing Tribal sovereignty in serving their children and families; and advancing policies that keep Native children connected to their families, cultures, and communities.

Conclusion

In sum, research shows that kinship care has strong, long-term benefits for children’s safety, stability, and well-being. Recent federal policies and regulations have expanded support for kinship care, and it is important to continue to advocate for agencies to follow ICWA and to adopt the federal rule allowing for kin-specific licensing, as these practices support Native children and their relative caregivers. Fully implementing ICWA’s requirements is essential to ensuring that all kinship families receive equitable and culturally responsive services. Upholding both the letter and spirit of ICWA supports Native children in maintaining family connections and preserving their cultural identities.

The Grandfamilies & Kinship Support Network: A National Technical Assistance Center (Network) helps government agencies and nonprofits in states, Tribes, and territories work across jurisdictional and systemic boundaries to improve supports and services for families in which grandparents, other relatives, or close family friends are raising children whose parents are unable to do so. For more information, please visit www.GKSNetwork.org.

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